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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,438	06/22/2000	Jerzy Michal Lemanczyk	193337US2	7854

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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VANORE, DAVID A

ART UNIT	PAPER NUMBER
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2881

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/599,438

### Applicant(s)

LEMANCZYK ET AL.

### Examiner

David A Vanore

### Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***R sponse to Arguments***

Applicant's arguments filed September 15, 2003 have been fully considered but they are not persuasive.

Applicant argues that lens items 16 and 30 of Hemming are "not reflective elements". Col. 5 Lines 60-68, as specifically pointed out in the previous Office action, clearly spells out that lens items 16 and 30 reflect and refract the electromagnetic waves.

Applicant argues that Hemming would not enable the testing of a source of electromagnetic radiation. The device of Hemming measures the characteristics of a produced electromagnetic field by detecting said field with an antenna under test and therefore tests the output of that source. Since the source in Hemming produces the field, the antenna further measures the performance of the source.

Regarding Applicant's traversal of what appeared to be Official Notice in the previous Office action, the examiner made the argument that since the device of Hemming has the required elements such as a source, a wave reception element and a screen, there is inherently a means of mounting and supporting these devices. The probe mount holds the support and the support holds the screen in claims 1 and 14. The screen of Hemming cannot simply float in space, and must be supported by a network of load bearing items, which are functionally equivalent to the probe mount and attached support.

Regarding Applicants arguments that Hemming must re-emit beams along a central axis of symmetry, it was previously established that the lens 16 of Hemming acts

as a reflecting means. Given the curved geometry of this lens, the beams reflecting off the air/lens boundary near the source, but not at the closest point of the lens to the source, in Fig. 1 must be reflected away from a central axis of symmetry because the normal of that surface is pointing away from the central axis of symmetry.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 recites the limitation "said support" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claims 1-13 carry the limitations of claim 1, and therefore are similarly rejected for the above reason.

Claims 7 and 20 recites the limitation "wave reflecting element" in lines 3 and 1-2, respectively. There is insufficient antecedent basis for this limitation in the claim. Claims 8-9, 11-12, and 21-22 are similarly rejected for the same reason.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schofield et al.

Schofield et al. teaches a probe device for measuring the characteristics of an electromagnetic source under test comprising a wave reception element 36, a probe mount (the frame of the car, not shown) having a support fastened there on (rubber windshield sealing, also not shown), and a screen (32) between the detector and the probe mount for reflecting beams impinging on the detector from a source and scattering the beams into space. See Fig. 10 and Col. 3 and 4.

Claims 1-3 stand rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hemming. Claims 14-16, and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hemming

Hemming teaches a probe device for measuring an electromagnetic field radiated by a source under test comprising a metal wave reception element (14), which inherently must have a support means satisfying the limitation of the support and probe mount, and further comprising a screen means (16) for reflecting and redirecting radiation into space (Col. 5 Lines 60-67) where the radiation emanates from a radiation source under test (12) as recited in claims 1, 14, and 25.

The screen means (16), source (12), and radiating means (14) are all along a common axis of central symmetry (Fig. 1). Since the screen (16) reflects and re-emits radiation as cited above, any such reflection and re-emission must therefore be away from this central axis of symmetry as recited in claims 2 and 15.

Further, device cited above is enclosed in an anechoic chamber (10) which absorbs radiation which is redirected and reflected as recited in claims 3 and 16.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemming.

Regarding claim 17, Hemming teaches all limitations as pointed out above.

Hemming fails to teach the inclusion of a moveable carrying device such that the probe may be supported and moved.

The inclusion of such a carrying device or the modification of the device of Hemming to include such a device would make such an apparatus portable.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device of Hemming portable because it has been held that making a device portable or moveable does not distinguish the device over prior art unless a new and unexpected result is achieved. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952).

Regarding claims 18-19, Hemming teaches all limitations as pointed out above.

Hemming fails to teach that the surface of a device under test has a predetermined surface conforming to either a planar or cylindrical surface.

The selection of the shape of an object to be scanned in the device of Hemming is an intended use of said device. There is no reason to believe that an irregular, ellipsoidal, or parabolic surface could not similarly be scanned in the device of Hemming as well.

Therefore, it would have been obvious to one having ordinary skill at the time the invention was made to scan an object of desired shape in the device of Hemming because the scanning of an object with a planar or conical shape is an intended use of the device of Hemming.

***Allowable Subject Matter***

Claims 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach or suggest a probe as recited in claim 14 further comprising the conical skirt having a circular cross-section around a central axis acting as a reflective screen.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

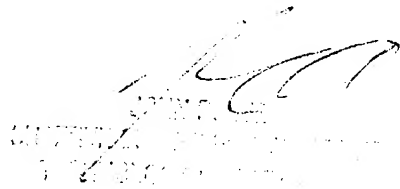
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Vanore whose telephone number is 703-306-0246. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on 703-308-4116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

dav



DAVID A. VANORE  
EXAMINER  
12/10/09